



**US Army Corps
Of Engineers**
Seattle District

Information Paper

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Corps Permitting Requirements for Restoration Projects

U.S. Army Corps of Engineers Jurisdiction In Waters & Wetlands:

The U.S. Army Corps of Engineers (Corps) regulates restoration activities through two separate regulations - Section 10 of the Rivers and Harbors Act of March 3, 1899 and Section 404 of the Clean Water Act (Federal Water Pollution Control Act of June 30, 1948 as amended). A Department of the Army permit is typically required for activities involving placement of fill material into or mechanized land-clearing in any water of the United States, including wetlands, or construction of any structure or fill in navigable waterways. The limits of waters of the U.S. (and Corps jurisdiction) are defined as follows:

- The elevation line of ordinary high water (OHW) for creeks, rivers, lakes, reservoirs, and other freshwater areas;
- The wetland boundary for wetlands;
- The elevation line of mean higher high water (MHHW) (the average of the highest of daily high tides) for fill in marine areas; and
- The elevation line of mean high water (MHW) for structures in marine areas.

The Corps jurisdiction is not based on the water level at the time the work is performed. For example, work in streams done waterward of the OHW elevation line but when the area is dry still falls within Corps jurisdiction. Mechanized land-clearing, grading, or stockpiling on marine beaches done waterward of the MHHW elevation line but during low tide also falls within Corps jurisdiction.

Some habitat restoration/rehabilitation activities that typically require a Corps permit include:

- Placement of rock, riprap, or gravel in waters of the U.S., including wetlands;
- Installation of woody debris or habitat structures that requires excavation with backfill in waters of the U.S., including wetlands;
- Grading of streambeds or streambanks in waters of the U.S., including wetlands;
- Installation of streambed controls, including rock weirs and gabions;
- Placement of fill into streams that have been or will be redirected into new channels;
- Removal of dams or other fish passage barriers;
- Stockpiling or side-casting (even temporarily) of spoils or other fill material in waters of the U.S., including wetlands;
- Soil movement during vegetation clearing in waters of the U.S., including wetlands; and
- Fill placed in waters or wetlands for access roads.

Applying for a Department of the Army Permit:

The U.S. Army Corps of Engineers, Seattle District, Regulatory Branch accepts the Joint Aquatic Resources Permit Application (JARPA) form. The JARPA is also typically used when applying for a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.

To help expedite review of your application, ensure that you submit legible, easily understandable 8 ½- by 11-inch drawings of the proposed work, making sure to clearly label all elements of the proposed work and the relevant line of Corps jurisdiction. Refer to the JARPA form for more drawing guidelines.

Compliance with the Endangered Species Act (ESA):

Issuance of a Department of the Army permit is considered a federal action under the ESA and therefore the Corps is required to comply with Section 7 consultation requirements.

For those projects with Federal funding, the National Marine Fisheries Service (or other Federal funding agency) will be the federal lead agency and will be required to address the ESA consultation requirements. For projects with no Federal funding or other Federal link, the Corps will be the federal lead agency. Projects funded through the Salmon Recovery Funding (SRF) Board are not necessarily federally funded.

When the Corps is the federal lead agency, we require applicants to submit a biological evaluation/biological assessment (BE/BA) addressing potential effects (short and long-term, adverse and beneficial) that the proposed project may have on listed or proposed species and any designated or proposed critical habitat.

Streamlining Restoration Projects:

There are several streamlining initiatives either in place or underway at the Corps for projects that have the sole purpose of restoring habitat. These include:

- *Nationwide Permit (NWP) 27: Restoration.* If a project meets the parameters of NWP 27, the Corps application review process is greatly shortened from the standard individual permit review process.
- *Priority Status.* Review of applications for restoration projects are considered a priority item at the Corps.
- *Programmatic Consultations.* The Corps is actively working on the development of Programmatic Consultations with both National Marine Fisheries Service and U.S. Fish and Wildlife Service to speed up the ESA consultation process for restoration projects.

For more information on Department of the Army permits, ESA requirements and writing BE's, please contact the Corps at:

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